

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of

OASIS INVESTMENTS II MASTER FUND LTD.,

Petitioner, for an Order Pursuant to 28 U.S.C. § 1782 to
Conduct Discovery for Use in a Foreign Proceeding.

Case No. 21-mc-_____

**APPLICATION FOR AN *EX PARTE* ORDER OF JUDICIAL ASSISTANCE
PURSUANT TO 28 U.S.C. § 1782**

Petitioner Oasis Investments II Master Fund Ltd. (“Petitioner”) respectfully requests an order in the form attached hereto permitting Petitioner to obtain discovery under 28 U.S.C. § 1782 (“Section 1782”) in connection with an appraisal proceeding pending in the Grand Court of the Cayman Islands (the “Appraisal Proceeding”). In support of this application, Petitioner submits a Memorandum of Law, the Declarations of Kyle J. Kolb (the “Kolb Declaration”) and Jonathan Guy Manning, and the exhibits thereto, and further states as follows:

1. Petitioner seeks the assistance of this Court to obtain discovery from Duff & Phelps LLC (n/k/a Kroll LLC) (“Duff”) and Duff & Phelps Securities LLC (“D&P Securities” and together with Duff, “Respondents”) which can both be “found” for purposes of Section 1782 in this district. Petitioner’s narrowly tailored requests relate to Duff’s engagement as an independent financial advisor to a special committee of the board of directors of China Biologic Products Holdings, Inc. (the “Company”) and D&P Securities providing the Company with additional advice. The subpoenas seeking discovery from Respondents are attached as **Exhibits 1 and 2** to the Kolb Declaration.

2. Petitioner held shares in the Company, which was publicly traded on NASDAQ before it was taken private and de-listed in April 2021. Respondent Duff offered a fairness opinion

regarding the financial fairness of that transaction. Respondent D&P Securities was also retained by the special committee to provide financial and market related advice in connection with the transaction. This discovery cannot be obtained directly in the Appraisal Proceeding.

3. Section 1782 permits an “interested person” to obtain discovery in the United States to assist in a foreign proceeding. In particular, Section 1782(a) states:

The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal, including criminal investigations conducted before formal accusation. The order may be made . . . upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court.

4. The requirements of Section 1782 are satisfied here. As explained in the accompanying submissions, (1) Respondents are “found” in New York City, (2) the discovery sought is to be used in the Appraisal Proceeding, and (3) Petitioner is an “interested person” in that proceeding.

5. This application also meets the discretionary factors of § 1782, as explained further in the accompanying Memorandum of Law: (1) Respondents are not a party to the Appraisal Proceeding, (2) Cayman Islands courts are receptive to U.S. court assistance, (3) Petitioner is not attempting to circumvent foreign proof-gathering restrictions, and (4) the discovery requests are not unduly intrusive or burdensome. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241 (2004).

Thus, Petitioner respectfully requests that this Court expeditiously grant its application for an Order granting Petitioner leave to serve Respondents with the subpoenas attached as Exhibits 1 and 2 to the Kolb Declaration.

WHEREFORE, Petitioner respectfully requests that this Court enter an Order, substantially in the form attached hereto:

1. Granting its Application for discovery pursuant to 28 U.S.C. § 1782;
2. Authorizing Petitioner to obtain discovery from Respondents, by issuing the proposed subpoenas;
3. Directing Respondents to comply with the subpoena issued in this case in accordance with the Federal Rules of Civil Procedure and the Rules of this Court.

Dated: November 11, 2021
New York, New York

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